



C.M.A.Nos.683, 684 and 585 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 07.03.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.M.A.Nos.683, 684 and 585 of 2025

Minor.Sindhuja
D/o.Ravikumar
(Minor Rep. by NF father Ravikumar) ... Appellant (in CMA.No.683/2025)

Balrasu ... Appellant (in CMA.No.684/2025)

Venkatesan ... Appellant (in CMA.No.585/2025)
vs.

1.Thamaraivelu

2.IFFCO Tokio General Insurance Co., Ltd.,
Rep., by its Manager, No.49/1B, Devakrishna Square,
3rd floor, Katpadi Main Road, Viruthampet,
Vellore 632 006. ... Respondents (in all CMAs)

COMMON PRAYER: Civil Miscellaneous Appeals are filed under Section 173 of the Motor Vehicle Act, 1988, to enhance the compensation amount made in order dated 24.04.2024 made in M.C.O.P.Nos.214, 215 and 216 of 2023 on the file of the Motor Vehicle Accident Claims Tribunal, Special Subordinate Court, Krishnagiri by allowing these Civil Miscellaneous Appeals.

For Appellants : Mr.S.P.Yuaraj (in all CMAs)

For R2 : Mr.K.Poomalai (in all CMAs)

For R1 : Notice Dispensed With (in all CMAs)



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COMMON JUDGMENT

WEB COPY Not satisfied with the quantum of compensation awarded by the Motor Vehicle Accident Claims Tribunal, Special Subordinate Court, Krishnagiri in M.C.O.P.Nos.214, 215 and 216 of 2023, dated 24.04.2024 and also fixation of contributory negligence on the claimant in C.M.A.No.585 of 2025, the claimants have come by way of these appeals.

2. Since the claimants in all these civil miscellaneous appeals got injured in a single accident, all these appeals are taken together.

3. It is the case of the claimant in C.M.A.No.585 of 2025 that he proceeded in his two wheeler bearing Registration No.TN 24 K 0604 along with claimants in other appeals on the extreme left side of the road by following all traffic rules. When he was proceeding in Chinnakothur to Gurubarapalli Road near Mettupalayam Rajappa's House, the Car bearing Registration No.PY 02 E 3700 belongs to the 1st respondent and insured with the 2nd respondent came in the opposite direction in a rash and negligent manner and dashed against the two wheeler in which the claimants travelled. Due to the impact of accident, all the claimants sustained grievous injuries



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and they were admitted to Hospital and have been treated as in-patients for quite sometime. The claimants in all these appeals in C.M.A.Nos.585, 684 and 683 of 2025 filed claim petitions seeking compensation of Rs.20,00,000/-, Rs.30,00,000/- and Rs.20,00,000/- respectively.

4. Before the Tribunal, the claimant in C.M.A.No.585 of 2025 was examined as PW.1. The claimant in C.M.A.No.684 of 2025 was examined as PW.2. The father of the claimant in C.M.A.No.683 of 2025 was examined as PW.3. On the side of the claimants, 20 documents were marked as Exs.P1 to P20. On behalf of the 2nd respondent-Insurance Company, the Official of the Insurance Company was examined as RW.1 and 2 documents were marked as Exs.R1 and R2. The Disability Certificates issued to the claimants in C.M.A.Nos.683, 684 and 585 of 2025 have been marked as Ex.C1 to Ex.C3 respectively.

5. The Tribunal based on the evidence available on record came to the conclusion that accident had occurred only due to negligence on the part of the driver of the car belonging to the 1st respondent and insured with the 2nd respondent. The Tribunal quantified the compensation payable to the



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claimants in C.M.A.Nos.585, 684 and 683 of 2025 as Rs.9,89,360/-,

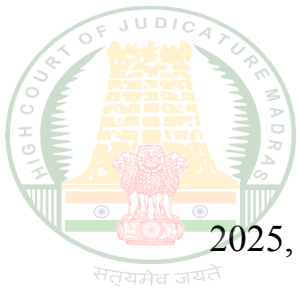
Rs.10,31,000/- and Rs.7,67,500/- respectively. The compensation awarded

by the Tribunal under various heads to the claimants extracted hereunder:-

Heads of compensation	MCOP No.216/2023	MCOP No.215/2023	MCOP No.214/2023
Future loss of earning capacity/Disability	Rs.6,82,000/-	Rs.1,92,500/-	Rs.3,00,000/-
Loss of income / income to parents	-	Rs.28,500/-	Rs.20,000/-
Pain and suffering	Rs.70,000/-	Rs.50,000/-	-
Transportation expenses	Rs.15,000/-	Rs.15,000/-	Rs.15,000/-
Additional nourishment	Rs.10,000/-	Rs.10,000/-	Rs.10,000/-
Damages to the clothes	Rs.1,500/-	Rs.1,500/-	Rs.1,500/-
Loss of amenities	Rs.50,000/-	Rs.50,000/-	-
Medical Bills	Rs.3,83,200/-	Rs.6,58,500/-	Rs.4,21,000/-
Future medical expenses	Rs.25,000/-	Rs.25,000/-	
Total	Rs.12,36,700/-	Rs.10,31,000/-	Rs.7,67,500/-
Negligence of the petitioner is fixed as 20% Rs.12,36,700x20/100- Rs.2,47,340/-	Rs.9,89,360/-		

Not satisfied with the quantum of compensation fixed by the Tribunal, the claimants have come before this Court.

6. The learned counsel appearing for the appellants/claimants would submit that while applying multiplier method for calculating the compensation under the head disability for the claimant in C.M.A.No.585 of

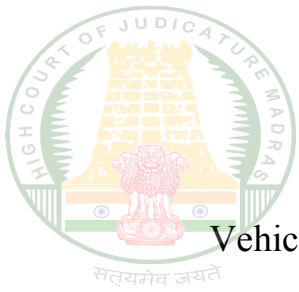


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2025, the Tribunal fixed the notional income only at Rs.1,20,800/- per annum and the same is on lower side. Hence, the compensation payable to the claimant requires enhancement. The learned counsel also submits that amount awarded under the head pain and suffering and transportation charges etc., are on lower side. The learned counsel further submits that the Tribunal committed an error in fixing contributory negligence of 20% on the claimant in C.M.A.No.585 of 2025, who had driven the two wheeler.

7. As far as claimant in C.M.A.No.684 of 2025 is concerned, the learned counsel submits that the amount of Rs.5,500/- fixed per percentage of disability is on lower side considering the date of accident and hence, it requires enhancement. As far as minor claimant in C.M.A.No.683 of 2025 is concerned, the learned counsel submits that the Tribunal has not awarded any amount towards pain and suffering and attender charges.

8. The Tribunal fixed 20% contributory negligence on the rider of the two wheeler/claimant in C.M.A.No.585 of 2025 only on the ground that he had allowed two other persons to travel in the bike violating the Motor



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Vehicles Act, 1988. In ***Mohammed Siddique and another vs. National Insurance Co. Ltd. and others*** reported in ***2020 (1) TN MAC 161 (SC)***, the

Apex Court has categorically held that merely because three persons travelled in a two wheeler that by itself cannot be treated as an act of negligence unless there is positive evidence to show that the said act contributed to the accident. In this regard, it would be appropriate to refer to the relevant observation of the Apex Court in the above mentioned judgment which reads as follows:-

“13. But the above reason, in our view, is flawed. The fact that the deceased was riding on a Motorcycle along with the Driver and another, may not, by itself, without anything more, make him guilty of Contributory Negligence. At the most it would make him guilty of being a party to the violation of the law. Section 128 of the Motor Vehicles Act, 1988, imposes a restriction on the Driver of a Two-wheeled Motorcycle, not to carry more than one person on the Motorcycle. Section 194-C inserted by the Amendment Act 32 of 2019, prescribes a penalty for violation of safety measures for Motorcycle Drivers and Pillion Riders. Therefore, the fact that a person was a Pillion Rider on a Motorcycle along with the Driver and one more person on the pillion, may be a



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violation of the law. But such violation by itself, without anything more, cannot lead to a finding of Contributory Negligence, unless it is established that his very act of riding along with two others, contributed either to the accident or to the impact of the accident upon the victim.

... .. ”

9. In the case on hand, based on evidence of PW.1 and contents of FIR, the Tribunal came to the conclusion that accident had occurred only due to the negligence on the part of the driver of the car belonged to the 1st respondent and insured with the 2nd respondent-Insurance Company. There is no positive evidence to suggest that merely because three persons travelled in the two wheeler the accident had occurred. Therefore, the Tribunal committed an error in fixing 20% contributory negligence on the rider of the two wheeler. Accordingly, the said finding is set aside.

10. As far as the claimant in C.M.A.No.585 of 2025 is concerned, the Tribunal fixed the notional income at Rs.1,20,800/- per annum which means the monthly notional income is at Rs.10,066/-. The accident had occurred on 07.12.2022. Having regard to the date of accident and the cost of living, this Court feels it would be appropriate to fix the notional income at Rs.18,000/-



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per month. In that case, the claimant is entitled to Rs.12,28,500/- (18,000 x 1.25 x 12 x 13 x 35/100).

11. The Medical Board, which examined the claimant in C.M.A.No.585 of 2025 issued Disability Certificate marked as Ex.C3 fixing partial permanent disability at 65%. The Medical Board fixed the disability only for the right knee of the injured. Therefore, the same was converted into whole body and Tribunal fixed the functional disability at 35%. The said finding is confirmed.

12. The amount of Rs.70,000/- awarded by the Tribunal towards pain and suffering is slightly on higher side. When multiplier method was applied, the claimant is entitled to only nominal amount to the conventional heads like pain and sufferings and loss of amenities etc. Though the amount awarded by the Tribunal under the head pain and sufferings is slightly on higher side. This Court is not inclined to interfere with the same by taking into consideration no amount has been awarded towards attender charges. Therefore, the amount awarded by the Tribunal under various other heads are confirmed. The total amount payable to the claimant in C.M.A.No.585 of



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2025 is enhanced Rs.17,83,200/-.

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13. As far as the claimant in C.M.A.No.684 of 2025 is concerned, as per the Disability Certificate issued by the Medical Board marked as Ex.C2, the disability was fixed at 35%. The Tribunal granted only Rs.5,500/- per percentage of disability. Taking into consideration the year of accident, this Court feels it would be appropriate to grant Rs.9,000/- per percentage of disability. In that case, the amount payable to the claimant under the head disability will be Rs.3,15,000/- (35 x Rs.9,000/-).

14. As far as the loss of income during treatment period is concerned, the Tribunal granted only a sum of Rs.9,500/- for three months. Taking into consideration the year of accident, this Court is inclined to fix Rs.18,000/- per month as notional income. For three months, the claimant is entitled to Rs.54,000/- towards loss of income. The amount awarded by the Tribunal under the head pain and suffering is slightly on higher side. However, no amount has been awarded for attender charges. Therefore, the said amount is confirmed. The amount awarded by the Tribunal under various other head like Transportation Expenses, Additional Nourishment, Damages to the



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clothes, Loss of Amenities, Medical Bills, Future Medical Expenses are reasonable and hence, the same are confirmed. In all the amount payable to the claimant in C.M.A.No.684 of 2025 is enhanced to Rs.11,79,000/-.

15. As far as minor claimant in C.M.A.No.683 of 2025 is concerned, as per Ex.C1-Disability Certificate issued by the Medical Board, the disability was fixed at 30%. The Tribunal following the guidelines issued by the Apex Court in the case of **Master Mallikarjun Vs. Divisional Manager, National Insurance Company Limited and another** reported in **2013 (2) TNMAC 338**, granted compensation at Rs.3,00,000/- under the head disability and the same is in accordance with law declared by the Apex Court and the same is confirmed. The relevant portion reads as follows:-

“12. Though it is difficult to have an accurate assessment of the compensation in the case of children suffering disability on account of a motor vehicle accident, having regard to the relevant factors, precedents and the approach of various High Courts, we are of the view that the appropriate compensation on all other heads in addition to the actual expenditure towards treatment, attendant, etc., should be, if the disability is above 10 percent and upto 30 percent to the whole body, Rs.3,00,000; upto 60 percent,



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Rs.4,00,000/- upto 90 percent, Rs.5,00,000/- and above 90 percent, it should be Rs.6,00,000/-. For permanent disability upto 10 percent, it should be Rs.1,00,000/-, unless there are exceptional circumstances to take a different yardstick.”

16. The Tribunal awarded only Rs.20,000/- under the head loss of income to parents. Taking into consideration the minor claimant was in hospital for 8 days, this Court feels the amount payable to the parents towards inconvenience caused to them/loss of income during treatment period etc., has been enhanced to Rs.30,000/- instead of Rs.20,000/-. The amount awarded by the Tribunal under various other heads are reasonable and hence, the same is confirmed. In all the claimant in C.M.A.No.683 of 2025 is entitled to Rs.7,77,500/-.

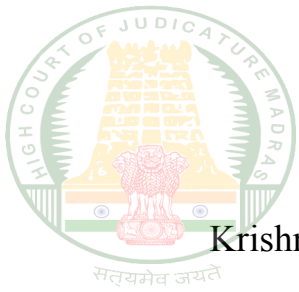
17. Accordingly, the award passed by the Tribunal is modified as follows:-

Sl. No.	Description	Compensation awarded by the Tribunal			Compensation awarded by this Court		
		MCOP No.216/2023 (in Rupees)	MCOP No.215/2023 (in Rupees)	MCOP No.214/2023 (in Rupees)	C.M.A.No. 585/2025 (in Rupees)	C.M.A.No.6 84/2025 (in Rupees)	C.M.A.No. 683/2025 (in Rupees)
1	Future loss of earning capacity/Disability	6,82,000	1,92,500	3,00,000	12,28,500	3,15,000	3,00,000



Sl. No.	Description	Compensation awarded by the Tribunal			Compensation awarded by this Court		
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2	Loss of income / income to parents	-	28,500	20,000	-	54,000	30,000
3	Pain and suffering	70,000	50,000	-	70,000	50,000	-
4	Transportation expenses	15,000	15,000	15,000	15,000	15,000	15,000
5	Additional nourishment	10,000	10,000	10,000	10,000	10,000	10,000
6	Damages to the clothes	1,500	1,500	1,500	1,500	1,500	1,500
7	Loss of amenities	50,000	50,000	-	50,000	50,000	-
8	Medical Bills	3,83,200	6,58,500	4,21,000	3,83,200	6,58,500	4,21,000
9	Future medical expenses	25,000	25,000		25,000	25,000	-
10	Negligence of the petitioner is fixed as 20% Rs.12,36,700 x 20/100-Rs.2,47,340/-	2,47,340/-	-	-	Set aside	-	-
Total		9,89,360	10,31,000	7,67,500	17,83,200	11,79,000	7,77,500

18. In view of the discussions made earlier, the compensation awarded by the Tribunal is enhanced to Rs.17,83,200/-, Rs.11,79,000/- and Rs.7,77,500/- from Rs.9,89,360, Rs.10,31,000/- and Rs.7,67,500/-. The 2nd respondent/Insurance Company is directed to deposit the enhanced award amount of Rs.17,83,200/-, Rs.11,79,000/- and Rs.7,77,500/- together with interest at the rate of 7.5% per annum from the date of claim petitions to the date of realisation, after deducting the amount already deposited, if any, to the credit of M.C.O.P.Nos.216, 215 and 214 of 2023 respectively on the file of the Motor Accident Claims Tribunal, Special Subordinate Court,



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Krishnagiri, within a period of six weeks from the date of receipt of copy of this common judgment. On such deposit, the appellants/claimants in C.M.A.Nos.585 and 684 of 2025 are permitted to withdraw their respective award amount by filing appropriate application before the Tribunal.

19. As far as the minor claimant in C.M.A.No.683 of 2025 is concerned, the guardian is entitled to withdraw a sum of Rs.4,77,500/- by making formal application before the Tribunal. The remaining amount of Rs.3,00,000/- awarded towards disability shall be deposited in anyone of the Nationalized Banks under a Fixed Deposit Scheme **for a period of three years** which would be renewed periodically until she attains majority and the guardian of the minor claimant is permitted to withdraw the interest accrued thereon in the said Fixed Deposit Account **once in three months**.

20. It is seen from the award passed by the Tribunal that pay and recovery has been ordered in favour of the 2nd respondent/Insurance Company on the ground that offending vehicle did not possess Fitness Certificate on the date of accident. The said finding rendered by the Tribunal



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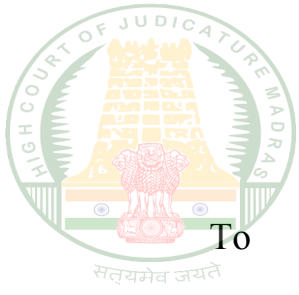
is confirmed.

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21. In the result, all these Civil Miscellaneous Appeals are partly allowed. No costs.

07.03.2025

Index :Yes / No
Speaking order :Yes / No
Neutral Citation :Yes / No
dm



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To

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- 1.The Motor Vehicle Accident Claims Tribunal,
Special Subordinate Court, Krishnagiri.
- 2.Manager, IFFCO Tokio General Insurance Co., Ltd.,
No.49/1B, Devakrishna Square,
3rd floor, Katpadi Main Road, Viruthampet,
Vellore 632 006.
- 3.The Section Officer,
VR Section,
High Court, Madras.



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S.SOUNTHAR, J.

dm

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